

1 MICHAEL S. DICKE (CSB NO. 158187)
mdicke@fenwick.com
2 CATHERINE D. KEVANE (CSB NO. 215501)
ckevane@fenwick.com
3 CASEY O'NEILL (CSB NO. 264406)
coneill@fenwick.com
4 FIONA TANG (CSB NO. 298101)
ftang@fenwick.com
5 FENWICK & WEST LLP
555 California Street, 12th Floor
6 San Francisco, CA 94104
Telephone: (415) 875-2300
7 Facsimile: (415) 281-1350
8 Attorneys for Defendant Alameda Research LLC
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION
13

14 BITCOIN MANIPULATION ABATEMENT
15 LLC,

16 Plaintiff,

17 vs.

18 FTX TRADING LTD, ALAMEDA
RESEARCH LLC, ALAMEDA RESEARCH
19 LTD (BVI), SAMUEL BANKMAN-FRIED,
GARY WANG, ANDY CROGHAN,
20 CONSTANCE WANG, DARREN WONG, and
CAROLINE ELLISON,

21 Defendants.
22
23
24
25
26
27
28

Case No.: 4:19-CV-07245-HSG

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF ALAMEDA RESEARCH
LLC'S NOTICE OF MOTION AND
MOTION TO DISMISS BITCOIN
MANIPULATION ABATEMENT LLC'S
AMENDED COMPLAINT**

Date: February 13, 2020
Time: 2:00 p.m.
Dept: Courtroom 2 – 4th Floor
Judge: Hon. Haywood S. Gilliam, Jr.

Defendant Alameda Research LLC (“Alameda”), by and through its attorneys, hereby requests that the Court take judicial notice of **Exhibits A-B**, attached to the accompanying Declaration of Fiona Y. Tang (the “Tang Declaration”) and referenced in Alameda’s Motion to Dismiss Bitcoin Manipulation Abatement LLC’s Amended Complaint (“Motion”), filed concurrently herewith. Alameda submits that, pursuant to Rule 201 of the Federal Rules of Evidence, the Court may take judicial notice of the documents attached as **Exhibits A-B** to the Tang Declaration. Judicial notice of these documents is appropriate for the reasons set forth below. The documents to be considered are as follows:

1. The Certificate of Organization of Transpacific IP Group LLC and the Certificate of Formation of a Limited Liability Company (together, the “Certificates”) which were filed with the Secretary of State of the Government of Puerto Rico on March 13, 2019. The Certificates are attached as **Exhibit A** to the Tang Declaration.

2. The Certificate of Amendment certifying a name change from Transpacific IP Group LLC to Bitcoin Manipulation Abatement LLC (the “Amendment”) which was filed with the Secretary of State of the Government of Puerto Rico on November 2, 2019. The Amendment is attached as **Exhibit B** to the Tang Declaration.

A matter that is properly the subject of judicial notice may be considered along with the complaint when deciding a motion to dismiss for failure to state a claim. *See Skilstaf, Inc. v. CVS Caremark Corp.*, 669 F.3d 1005, 1016, n.9 (9th Cir. 2012). Courts routinely take judicial notice of public documents filed by corporations with a state or territory’s Secretary of State. *See, e.g., In re Yahoo! Inc. S’holder Deriv. Litig.*, 153 F. Supp. 3d 1107, 1117-18 (N.D. Cal. 2015) (proper to take judicial notice of SEC filings and certificate of incorporation); *Metzler Inv. GMBH v. Corinthian Colls., Inc.*, 540 F.3d 1049, 1064 n.7 (9th Cir. 2008) (SEC filings subject to judicial notice) (citation omitted); *Shurkin v. Golden State Vintners, Inc.*, 2005 WL 1926620, at *6 (N.D. Cal. Aug. 10, 2005) (“[D]istrict courts routinely take judicial notice of public documents such as certificates of incorporation or organization filed with the secretary of state.”) (citation omitted). The Certificates and the Amendment were filed by plaintiff Bitcoin Manipulation Abatement

1 LLC (“BMA”), formerly known as Transpacific IP Group LLC, with the secretary of state of the
2 government of Puerto Rico, and are properly subject to judicial notice. Accordingly, Alameda
3 respectfully requests that the Court consider Exhibits A and B to the Tang Declaration in
4 connection with Alameda’s Motion.

5
6
7
8 Dated: December 12, 2019

Respectfully submitted,

FENWICK & WEST LLP

9
10 By: /s/ Michael S. Dicke
Michael S. Dicke

11 Attorneys for Defendant Alameda Research, LLC
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FENWICK & WEST LLP
ATTORNEYS AT LAW